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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,013	06/25/2001	Olalekan Akinyanmi	37123-6004	1548

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EXAMINER	
LAYE, JADE O	

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/892,013	AKINYANMI ET AL	
	Examiner	Art Unit	
	Jade O. Laye	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 June 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☒ Claim(s) *4,7 and 13* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 September 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10/21/02 & 6/23/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements (IDS) submitted on 10/21/02 and 6/23/04 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements.

Specification

2. The disclosure is objected to because of the following informalities:

   a. Applicant refers to "content delivery system 100" throughout the Specification, but fails to label it in figure 1.

   b. Applicant refers to "digital video signals 208", but the drawings label figure 208 as "cable."

   Appropriate correction is required.

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the title refer to content recommendation or suggestion.

Claim Objections

4. Claims 4, 7, and 13 are objected to because of the following informalities:

a. The term "...the individuals..." in claim 4 lacks antecedent basis. The phrase should refer to "..the one or more individuals."

b. The term "...the type..." in claim 7 lacks antecedent basis.

c. The term "...the user..." in claim 13 lacks antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4-6, 9-11, 14-17, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendricks et al. (US Pat. No. 5,798,785).

As to claim 1, Hendricks discloses a terminal for suggesting programs to a user whereby hundreds of programming channels are provided. In response to received customer profiles, the system will determine what programs are likely to be desired by the user. Once this is ascertained, the system will transmit said programs to the customer. (Col. 2, Ln. 39-67 thru Col. 3, Ln. 1-50 & Fig. 1). Accordingly, Hendricks et al anticipate each and every limitation of claim 1.

Claims 9, 14, and 19 correspond to the method claim 1. Therefore, each is analyzed and rejected as previously discussed.

The limitations of claim 20 are encompass within claim 1 as well. However, claim 20 recites an additional limitation directed toward a recordable media. In so far as the limitations mirror one another, the same rejection applied under claim 1 applies to claim 20. Regarding the additional limitation, Hendricks et al disclose the use of a recordable "media" located at both the head end and subscriber side. (Col. 6, Ln. 16-20 & Col. 12, Ln. 22-29). (Note: Since Applicant provided no clear definition delineating the meaning of "recordable media", the Examiner interprets "recordable media" as being any component capable of recordation.) Accordingly, Hendricks et al anticipate each and every limitation of claim 20.

As to claim 2, Hendricks further teaches the channels consist of television programs. (Col. 2, Ln. 39-47). Accordingly, Hendricks et al anticipate each and every limitation of claim 2.

Claim 17 corresponds to the method claim 2. Therefore, it is analyzed and rejected as previously discussed.

As to claim 4, Hendricks further teaches the system is capable of receiving and processing information from multiple users; wherein receiving information from said multiple users comprises receiving profiles from each of the users. (Col. 38, Ln. 7-16). Accordingly, Hendricks et al anticipate each and every limitation of claim 4.

Claims 10 and 15 correspond to the method claim 4. Thus, each is analyzed and rejected as previously discussed.

As to claim 5, Hendricks further teaches the viewer profile includes viewing patterns of the customers. (Col. 38, Ln. 7-16). Accordingly, Hendricks et al anticipate each and every limitation of claim 5.

As to claim 6, Hendricks system does associate viewing patterns with individuals. (Col. 2, Ln. 38-67 thru Col. 3, Ln. 1-50). Accordingly, Hendricks et al anticipate each and every limitation of claim 6.

Claims 11 and 16 correspond to the method claim 6. Thus, each is analyzed and rejected as previously discussed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al in view of Eldering et al. (US Pat. No. 6,457,010).

Applicants claim 3 recites the method of claim 1, wherein the channels of content include Internet services. As discussed above, Hendricks et al disclose all limitations of claim 1, but fail to recite the limitation of claim 3. However, within the same field of endeavor, Eldering et al disclose a similar system, which also provides Internet services. (Col. 1, Ln. 11-28 & 50-59 ; Col. 7, Ln. 6-12). Therefore, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Hendricks and Eldering in order to provide a system capable of monitoring subscriber interests regarding both broadcast programming and Internet services in order to provide targeted advertisements/programming to the user.

Claim 18 corresponds to the method claim 3. Thus, it is analyzed and rejected as previously discussed.

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks in view of Smolen (US Pat. No. 5,915,243) and further in view of Alexander et al. (US Pat. No. 6,177,931).

Claim 7 recites the method of claim 1, wherein the customer comprises a business entity, and wherein receiving information from the customer comprises receiving information regarding the type of business entity. As discussed above, Hendricks et al disclose all limitations of claim 1, but fail to specifically recite the limitations of claim 7. However, within the same field of endeavor, Smolen discloses a similar system in which advertisements (i.e., programming) are delivered to a business based upon a profile of the business. (Col. 1, Ln. 4-16). Although Smolen does not specifically discuss whether the "type" of business is detailed in the business profile, it is notoriously known in the art that profiles can contain this and various other information. Alexander discloses a similar system in which the customers can be identified via the use of a PIN number and the customer profiles contain a broad range of information on the customer related to anything from attention span to the type of pet the customer owns. (Col. 28, Ln. 22-29 ; Col. 29, Ln. 20-67 thru Col. 30, Ln. 1-37). This customer profile information can be broadly interpreted as the detailing the "type" of customer. Therefore, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to modify the teaching of Hendricks based upon the teaching of Smolen and Alexander in order to provide a system capable of identifying a "type" of business customer, thereby providing a system capable of recommending content to a business in addition to an individual user.

Claim 8 recites the method of claim 7, wherein receiving information from the customer comprises receiving information regarding the location of the business entity. As discussed above, the combined teachings of Hendricks, Smolen, and Alexander disclose all limitations of claim 7, and Smolen further teaches the limitations of claim 8. Specifically, Smolen discloses the use of a user area code in the user profile, which can be used to locate said user. (Col. 4, Ln.

42-67 ; Col. 7, Ln. 25-37). Accordingly, the combined systems of Hendricks, Smolen, and Alexander contain all limitations of claim 8.

8. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al in view of Smolen.

Claim 12 recites the system of claim 9, wherein the customer comprises a business establishment, and wherein the client delivery application provides a query for the customer to provide information related to customer viewing of content from among multiple channels of content. As discussed above, Hendricks et al disclose all limitations of claim 9, and further teach the use of queries in order to develop the user profile. (Col. 3, Ln. 5-7). But, Hendricks et al fail to discuss the further limitation of claim 12. However, within the same field of endeavor, Smolen teaches providing such services to a business (as discussed above). (Col. 1, Ln. 4-16). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of Hendricks and Smolen in order to provide a system capable of providing targeted programming to a business, thereby providing a system capable of ascertaining potential market interests of the business.

Claim 13 recites the system of claim 12, wherein the selected channel of content likely to be of interest to the user includes information related to the location of the business establishment. As discussed above, the combined system of Hendricks and Smolen contain the limitations of claim 12, and Smolen further discloses the use of a user's area code in the user profile, thereby allowing the system to ascertain the location of said user. (Col. 4, Ln. 42-67 &

Col. 7, LN. 25-37). Accordingly, the combined system of Hendricks and Smolen contain all limitations of claim 13.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Gutta (US Pat. No. 6,727,914) discloses a system for recommending programs.

b. Truckenmiller et al (US Pat. No. 5,455,619) disclose a system for identifying remotely located devices.

c. White et al (US Pat. No. 6,628,302) disclose a system capable of recommending programming.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner's Initials TL
April 22, 2005.

NGOC-YEN VU
PRIMARY EXAMINER